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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 10.9.2007.

Amar Singh .... Appellant.

vs

Kesar Singh and others .... Respondents.

Judgment

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.Mahesh Gupta,Advocate,for the appellant.

Mr.Gautam Dutt, Advocate, for respondent no.1.

Mr.Sushant Maini, Deputy Advocate General, Punjab,
for respondents no.2 and 3.

R.S.Madan, J.

This appeal is directed against the judgment dated 31.3.2004, vide which the Presiding Officer, Election Tribunal- Additional Deputy Commissioner, Sangrur, dismissed the election petition of the petitioner.

The following facts gave rise to the challenge of election of respondent no.1 Kesar Singh as Municipal Councilor from Ward No.12, Nagar Council, Dhuri. It is the case of the appellant that Ward No.12 is reserved for the Scheduled Castes candidates and he has filed the nomination paper as an independent candidate on 26.2.2003 and as a Congress candidate on 27.2.2003. His name was proposed by Baldev Kumar son of Sohan Lal. The case of the appellant is that on 28.2.2003, respondent no.2, while scrutinizing the nomination papers, has illegally rejected his nomination papers, and accepted that of respondent no.1 by declaring him

as elected unopposed. It is further case of the appellant that Baldev Kumar has rightly proposed his name, whereas later on he (Baldev Kumar) has wrongly proposed the name of respondent no.1. Therefore, the nomination paper of respondent no.1 Kesar Singh should have been rejected, and he should have been declared as unopposed.

Upon notice, respondent no.1 filed reply controverting the allegations and pleaded that the appellant has obtained the signatures of Baldev Kumar on the nomination papers filed on 26.2.2003. But in another set of nomination papers which the appellant filed on 27.2.2003, he fabricated and forged the signatures of Baldev Kumar.

The appellant filed replication to the reply controverting the averments made therein and reiterated the stand taken in the petition.

On the pleadings of the parties, the following issues were framed:-

1. Whether the election of the respondent no.1 is liable to be set aside on the grounds mentioned in the election petition? If so its effect OPP
2. Whether the name of the petitioner was proposed by Shri Baldev Kumar s/o Sohan Lal r/o Ward No.12 Dhuri and put his signatures when petitioner filed nomination papers for municipal councillor of ward no.12 at sequence 1 on 26/2/20003? If so its effect OPP
3. Relief.

Both the parties were afforded opportunities to adduce evidence in support of their case set up in the petition and the written statement.

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The grouse of the appellant is that at the time of filing of nomination papers Baldev Kumar was present with him before the returning officer (respondent no.2), therefore, it could not be said that the signatures of Baldev Kumar proposing the name of the appellant in the column is a forged one. Thus, his nomination was wrongly rejected by the Returning Officer.

On the other hand, it is the case of respondent Kesar Singh that Baldev Kumar has proposed his name on 27.2.2003 and he has also furnished affidavit duly signed by him in this regard. While appearing as RW2, Baldev Kumar has denied his signatures on the nomination papers filed on 27.2.2003 by the appellant but admitted the signatures appended on 26.2.2003. He deposed that he had appended the signatures in favour of the appellant when he filed his nomination papers as an independent candidate on 26.2.2003 but he had not signed his nomination papers as Congress candidate on 27.2.2003. The appellant has forged his signatures.

Another piece of evidence is the report of Handwriting and Finger Print Expert, Patiala,(Ex.R1). As per report, Ex.R1, the signatures on the nomination papers of 27.2.2003, are forged one. A criminal case under Section 420 IPC has also been registered against the appellant in Police Station, Dhuri, for forging the signatures of Baldev Kumar.

I have also seen the nomination papers of both the parties and the affidavit furnished by Baldev Kumar. The signatures appended on the nomination papers of the appellant on 27.2.2003 are appeared to be forged one.

Taking into the totality of the circumstances, the learned Presiding Officer, Election Tribunal, was justified in upholding the order of

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Returning Officer, rejecting the nomination papers of the appellant and accepting that of respondent no.1.

Finding no merit in the appeal, the same is hereby dismissed.

10.9.2007. (R.S.Madan)
vs. Judge.